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In re Patent No. 7,544,786

Aasly et al.

Issue Date: 06/09/2009

Application No. 10/568414

Filing or 371(c) Date: 07/12/2006

Atty. Docket No.: 07039-784US1

: LETTER REGARDING  
: PATENT TERM ADJUSTMENT  
: AND NOTICE OF INTENT  
: TO ISSUE  
: CERTIFICATE OF CORRECTION

This letter is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT," filed July 30, 2009. The Office thanks applicants for their good faith and candor in bringing this to our attention.

On June 9, 2009, the above-identified application matured into U.S. Patent No. 7,544,786, with a patent term adjustment of 11 days. Applicants indicate that the adjustment of 11 days appears to be longer than appropriate, and directs the Office's attention to the 371 Completion Date, and to the reply to a Notice to File Missing Parts filed in January 2007.

A review of the record reveals that the Office errantly calculated an adjustment of 82 days pursuant to 37 CFR 1.702(a)(1), in connection with the mailing of the Restriction Requirement mailed December 3, 2007. The application fulfilled the requirements of 35 U.S.C. 371 on December 7, 2006, and the Restriction Requirement was mailed within fourteen months after the date on which the application fulfilled the requirements of 35 U.S.C. 371, on December 3, 2007.

The record also reveals that the Office errantly neglected to assess a reduction of 160 days in accordance with 37 CFR 1.704(c)(7) in connection with the Sequence Listing filed August 15, 2007, in response to a Notice to Comply With Requirements for Patent Applications Containing Nucleotide and/or Amino Acid Sequence Disclosures, mailed January 11, 2007. The reduction commenced March 9, 2007, the day after the date the initial reply – a defective Sequence Listing - was filed, and ended August 15, 2007, the date that the compliant Sequence Listing was filed.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **zero (0) days**, (zero (0) days PTO delay, reduced by 231 days of applicant delay), subject to any terminal disclaimer.

Given the basis for granting this petition, no fee has been charged. The Office thanks applicants for their candor and good faith in bringing this matter to the attention of the Office.

Any request for reconsideration of this decision must be submitted within ONE MONTH of the mail date indicated herein. The time period for seeking reconsideration is not subject to extension under 37 CFR 1.136.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **ZERO (0) DAYS**.

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods, at (571) 272-3232.



Anthony Knight  
Supervisor  
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE  
**CERTIFICATE OF CORRECTION**

PATENT : 7,544,786 B2

DATED : June 9, 2009

INVENTOR(S) : Aasly et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[\*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 11 days.

Delete the phrase "by 11 days" and insert -- by 0 days--